

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-008177

09/20/2017

HON. RANDALL H. WARNER

CLERK OF THE COURT
K. Ballard
Deputy

WINNERS DEVELOPMENT COMPANY L L C, RUSSELL PICCOLI
et al.

v.

GUST ROSENFELD P L C, et al.

RANDALL S PAPETTI

WILLIAM G KLAIN
NICOLE FRANCE STANTON

TRIAL MINUTE ENTRY
DAY 7

Courtroom: ECB-912

8:36 a.m. Trial to a jury continues from September 19, 2017. Plaintiff Winners Development, LLC is represented by Counsel Russell Piccoli. Plaintiff's client representative, Fred Wagenhals, is also present. Defendant City of Avondale is represented by Counsel Kyle T. Orne, Lauren Elliott Stine and Nicole France Stanton. The above-referenced parties are the only parties participating in the trial; therefore, no other party is present or represented. The jury is not present.

Court Reporter Kristi Weeks is present. A record of the proceedings is also made digitally.

Jury instructions are discussed. The court will provide counsel another draft set of instructions based on today's discussions.

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Verdict forms are briefly discussed and approved.

The special interrogatories are discussed. These will be discussed further at a later date.

The court briefly addresses counsel regarding Juror 7.

Defendant's counsel requests to revisit the introduction of Exhibit 4 (the timeline) and further requests to voir dire Mr. Ruggieri about the document outside the presence of the jury.

9:14 a.m. Counsel John Maston O'Neal is now present on behalf of Defendant City of Avondale, in addition to counsel previously noted.

For the reasons set forth on the record,

IT IS ORDERED denying Defendant's request to voir dire Mr. Ruggieri regarding the timeline and overruling the objection to the admission of that exhibit.

9:15 a.m. Court stands at recess.

9:38 a.m. Court reconvenes with respective counsel and the parties present. Additionally, Defendant's client representative, David Fitzhugh, is present. The Jury is present.

Court Reporter Kristi Weeks is present. A record of the proceedings is also made digitally.

Plaintiff's case continues:

John Ruggieri retakes the stand and testifies further.

Plaintiff's Exhibit 16 is received in evidence.

Plaintiff's Exhibit 1 is received in evidence.

Plaintiff's Exhibit 63 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 67 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 9 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 54 is received in evidence, at the request of Defendant.

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Plaintiff's Exhibit 55 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 59 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 56 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 61 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 8 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 7 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 240 is received in evidence, at the request of Defendant.

10:50 a.m. Court stands at recess.

11:07 a.m. Court reconvenes with respective counsel and the parties present. The Jury is present.

Court Reporter Kristi Weeks is present. A record of the proceedings is also made digitally.

John Ruggieri continues testifying.

Plaintiff's Exhibit 51 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 270 is received in evidence, at the request of Defendant.

Plaintiff's Exhibit 31 is received in evidence, at the request of Defendant.

Defendant's Exhibit 426 is received in evidence.

Let the record reflect that court and counsel discuss previously-received questions from the jury outside the hearing of the jury. The relevant questions are asked and answered by the witness.

FILED: Jury Question No. 6

11:57 a.m. The Jury is excused for the lunch recess. Court remains in session.

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11:58 a.m. Juror 7 is present outside the presence of the remaining jurors. The court questions Juror 7 further regarding a question she submitted regarding a scheduling conflict. The juror will confer with her employer regarding alternative dates and report back to the court.

12:00 p.m. Juror 7 is excused from the courtroom. Court remains in session.

12:00 p.m. Court stands at recess.

1:35 p.m. Court reconvenes with respective counsel and the parties present. The jury is present.

Court Reporter Luz Franco is present. A record of the proceedings is also made digitally.

John Ruggieri continues testifying.

The witness is excused.

Charles Andrews is sworn and testifies.

Plaintiff's Exhibit 94 is received in evidence.

Plaintiff's Exhibit 95 is received in evidence.

Plaintiff's Exhibit 378 is received in evidence.

The court receives questions from the jury. Court and counsel discuss the same outside the hearing of the jury. The relevant questions are asked and answered by the witness.

FILED: Jury Question No. 7

The witness is excused.

Andrew McGuire is sworn and testifies.

Let the record reflect Mr. McGuire's attorney, Randall S. Papetti, is present in the courtroom.

2:55 p.m. Court stands at recess.

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FILED: Jury Question

3:15 p.m. Court reconvenes with respective counsel and the parties present. The jury is present.

Court Reporter Luz Franco is present. A record of the proceedings is also made digitally.

Andrew McGuire continues testifying.

4:31 p.m. The jury is excused for the evening; court remains in session.

Trial time usage is reviewed.

Plaintiff's counsel seeks clarification regarding the calling of Witness Kotzin. Court and counsel discuss the same.

4:38 p.m. Court stands at recess until 9:15 a.m. on Friday, September 22, 2017.

Let the record reflect that based on the agreement of counsel, 11 pages are removed from Exhibit 378 and returned to counsel.